IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORIGINAL SIDE

WRIT PETITION NO.2028 OF 2004

M/s. Welspun Gujarat Stahl
Rohren Ltd. Petitioner

vs.

1. Asst. Commissioner of Income-tax,
7(3), Mumbai & ors. Respondents

Mr. K. Gopal for the petitioner.

Mr. R.V. Desai with Ms.S.V. Bharucha i/b. Mr.Pankaj Kapoor for the respondents.

CORAM : R. M. LODHA &
J.P. DEVADHAR,JJ

DATED : 2nd September 2004

P.C.

Heard Mr.K.Gopal, the learned counsel for the petitioner and Mr.R.V. Desai, the learned senior counsel for the revenue.

2. The assessing officer was of the view that the accounts of the assessee were complex and the interest of the revenue demanded that accounts of the assessee be audited by a special auditor. After obtaining the approval of the concerned Income-tax Commissioner, the assessing officer directed the petitioner to get its accounts audited by the special auditor and submit the report of the special auditor within 120 days from the

date of the communication dated 25th March 2004. It is this communication which is under challenge in the present writ petition.

3. The learned senior counsel appearing for the revenue informs us that the special audit has substantially progressed and the special auditor could not submit the report in view of the letter written by the assessee to them that the writ petition challenging their appointment was subjudice before the High Court.

4. The diverse contentions were raised by the learned counsel for the petitioner in challenging the appointment of special auditor. We do not intend to go into those contentions because by now substantial progress has been made by the special auditor in auditing the petitioner's accounts. At this late stage, it would not be in the interest of justice to undo the work that the special auditor has done in auditing the petitioner's accounts. The writ petition itself was filed by the petitioner after 111 days of the communication dated 25th March 2004, though by the said communication special auditor was appointed and the report was to be submitted within 120 days thereof.

5. We, accordingly, dismiss the writ petition in limine. We direct the petitioner to cooperate with the

special auditor and furnish all necessary information called for by the special auditor. We direct the special auditor to submit its report now as early as possible and preferably within two weeks from today.

(R.M. LODHA, J.)

(J.P. DEVADHAR,J.)